

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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UNITED STATES OF AMERICA                    ) CRIMINAL ACTION  
  ) NO. 07-259 (ADM/RLE)  
  )  
  ) Courtroom 13 West  
(01) LARRY CURTIS TATE                    ) Friday, April 25, 2008  
  ) Minneapolis, Minnesota  
-----

**S E N T E N C I N G**  
**D A Y     2**

BEFORE THE HONORABLE ANN D. MONTGOMERY  
UNITED STATES DISTRICT JUDGE

**A P P E A R A N C E S:**

For the Government:     **OFFICE OF THE U.S. ATTORNEY**  
                              By: TRACY L. PERZEL  
                                      Assistant U.S. Attorney  
                                      600 United States Courthouse  
                                      300 South Fourth Street  
                                      Minneapolis, Minnesota 55415

For the Defendant:     **LAW OFFICES OF TIMOTHY R. ANDERSON**  
                              By: TIMOTHY R. ANDERSON, ESQUIRE  
                                      310 Fourth Avenue South - Suite 1050  
                                      Minneapolis, Minnesota 55415

Court Reporter:         **TIMOTHY J. WILLETTE, RDR, CRR, CBC, CCP**  
                                      Official Court Reporter - U.S.D.C.  
                                      1005 United States Courthouse  
                                      300 South Fourth Street  
                                      Minneapolis, Minnesota 55415  
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1 (4:15 p.m.)

2 **P R O C E E D I N G S**

3 **I N O P E N C O U R T**

4 (Defendant present)

5 THE COURT: Good afternoon. Please be seated.

6 THE CLERK: The Court calls the case of United  
7 States of America vs. Larry Curtis Tate, Criminal Case No.  
8 07-259.

9 Would counsel note their appearances, please.

10 MS. PERZEL: Good afternoon, your Honor. Tracy  
11 Perzel on behalf of the United States.

12 THE COURT: Good afternoon, Ms. Perzel.

13 Mr. Anderson?

14 MR. ANDERSON: Good afternoon, your Honor.  
15 Tim Anderson here on behalf of Mr. Larry Tate, also present  
16 before the Court.

17 THE COURT: And good afternoon, Mr. Tate.

18 I apologize that we're running a little behind the  
19 announced schedule. I've been in trial and needed a few  
20 minutes to talk to Ms. Chaiken.

21 I have read the position papers that you have filed  
22 on Mr. Tate's behalf, Mr. Anderson --

23 MR. ANDERSON: Thank you.

24 THE COURT: -- as well as Ms. Perzel's response,  
25 and let me tell you about a couple changes that are going to

1 be made in the presentence investigation to conform with some  
2 of the points raised and some other -- at least in my  
3 opinion -- relatively minor issues.

4 First of all, the cover sheet of the presentence  
5 investigation will obviously be changed to reflect  
6 Mr. Anderson as your new attorney, Mr. Tate.

7 Paragraph 52, which relates to the calculation of  
8 the base level offense, will be changed from 32 to 30 because  
9 of the new guidelines and the new configuration, and  
10 therefore that level will be put at 30 rather than 32, but it  
11 really is not going to affect the ultimate sentence here  
12 because the career offender status applies. I'll hear your  
13 argument on that, but at least in terms of my preliminary  
14 adjustments, that one will stay as is.

15 Also, on page 14 or paragraph 65 of the presentence  
16 investigation, after some further checking about the sentence  
17 actually served for the fourth degree assault, it's more  
18 appropriately assessed as a two-point rather than a  
19 three-point offense, which will bring the criminal history  
20 points down slightly to 26 total points, still a very high  
21 number and still falling within the category VI, which  
22 doesn't change the guideline numbers but does make some  
23 changes in the presentence investigation. So those are  
24 changes that will be made for sure.

25 Based upon the probation officer Ms. Alston's

1 application of the guidelines to the facts in this case, it's  
2 my intent to adopt a guideline determination of this being a  
3 base level offense of 32. It's a total offense level of 34  
4 and three points deducted for acceptance of responsibility,  
5 but the career offender applies, leaving it at 34.

6 This is a criminal history now with 26 points,  
7 still a Category VI, career offender, which would make the  
8 guidelines sentence 262 to 327 months, the supervised release  
9 period five years, the fine range \$17,500 to \$4 million, plus  
10 costs of imprisonment or supervised release, and the  
11 applicability of a \$100 special assessment.

12 Does the Government take issue with the Court's  
13 factual statements in the presentence investigation as my  
14 findings of fact or the guideline analysis?

15 MS. PERZEL: No, your Honor.

16 THE COURT: Mr. Anderson, I know you do based on  
17 some of your pleadings or position papers and I'll hear you  
18 from the lectern.

19 First of all, I don't know that at this point you  
20 dispute the factual statements. Do you?

21 MR. ANDERSON: No, your Honor.

22 THE COURT: I will adopt those as my findings of  
23 fact and hear you with regard to your guideline analysis.

24 MR. ANDERSON: Just briefly. I think I -- I hope  
25 I laid it out clearly, the argument, in the sentencing

1 pleading regarding whether or not Mr. Tate should be treated  
2 as a career offender. The argument is essentially this:

3 That he did plead to a charge. The fourth degree  
4 assault was a felony as written in the statute. The argument  
5 is that it was not clear that he was actually sentenced as a  
6 felony under Minnesota law and the argument is that by  
7 operation of the law, that my argument is that he was  
8 actually sentenced as a gross misdemeanor. Therefore, under  
9 the stay of imposition of sentence under Minnesota Statute  
10 609.135 it was actually started as a gross and it ended as a  
11 misdemeanor ultimately and therefore it shouldn't count as a  
12 prior crime of violence under the career offender guidelines.

13 Other than that, I would leave it submitted on the  
14 briefs regarding that issue.

15 THE COURT: All right. Ms. Perzel, did you want  
16 to be heard briefly on that issue?

17 MS. PERZEL: Your Honor, I have nothing beyond  
18 what's stated in my position pleading.

19 THE COURT: All right. Well, after examination of  
20 those pleadings and those arguments, I am convinced that the  
21 career offender appropriately applies. The issue is the way  
22 the sentence was imposed originally and I didn't find --  
23 although I respect your argument, I didn't find any authority  
24 for changing the career offender level, so the guideline  
25 parameters as I've announced them will apply to this case.

1 But of course, that does not end the sentencing analysis  
2 because of the 3553 factors and case law allowing the Court  
3 to consider other factors with regard to the guideline  
4 analysis.

5 So, at this point, if you and Mr. Tate will come  
6 forward to the lectern.

7 (Mr. Anderson and the defendant approach the lectern)

8 THE COURT: Ms. Perzel, did the Government wish to  
9 use its right to allocute regarding Mr. Tate's sentence?

10 MS. PERZEL: Your Honor, I may just briefly  
11 perhaps following whatever Mr. Anderson --

12 THE COURT: Okay. Mr. Anderson, then, we'll hear  
13 from you and your client in whatever order you might prefer.

14 MR. ANDERSON: Thank you, your Honor. I think I  
15 will start, give an argument, and then I think Mr. Tate does  
16 wish to be heard.

17 First of all, based on the fact that you have found  
18 that he does qualify as a career offender, as you stated,  
19 there still is an analysis left to be made under the 3553(a)  
20 factors. And as submitted at length in the sentencing  
21 pleading, under those factors, there is sufficient and  
22 substantial -- there are substantial reasons for this Court  
23 to depart substantially downward in that very significant and  
24 high guideline range of 262 to 327 months under the career  
25 offender guideline.

1           Number one, under the nature and circumstances of  
2           the offense, this was a relatively typical low-level drug  
3           dealing offense. There was a total of a little over four  
4           ounces of crack cocaine. I'm not downplaying the seriousness  
5           of the offense and neither is Mr. Tate, but I would at least  
6           submit that it's no more serious than the typical such  
7           conspiracy case.

8           And I think especially focusing on the Kimbrough  
9           case and the huge disparity in the career offender guidelines  
10          range between crack and powder cocaine, I think that that  
11          alone, but supplemented by all sorts of other reasons, that  
12          alone is sufficient reason for this Court to depart  
13          substantially downward. And as noted in my brief, the career  
14          offender guideline range for crack cocaine under these  
15          circumstances is 262 to 327 months, but for the same amount  
16          of roughly four ounces, a little over four ounces of powder  
17          cocaine would be 151 to 188 months, well over --  
18          approximately ten years lower.

19          Under Kimbrough, of course, this Court is well  
20          aware that this Court has the discretion to base a downward  
21          departure on the issue of the disparity between the crack and  
22          powder cocaine sentencing guidelines.

23                 THE COURT: But they've been pretty clear about  
24          how much I should change that sentence with regard to the  
25          two-level difference, correct?

1           MR. ANDERSON:   Well, the Sentencing Commission has  
2   said that they have started the process of fixing that  
3   anomaly within the guidelines and they frankly haven't yet  
4   addressed the issue of the career offender guideline range.  
5   So they started with that two-level, but they have made clear  
6   that that's the beginning of the process, not the end of the  
7   process, so I think that's important to consider. And I  
8   think it's also important to consider cases like Kimbrough  
9   and the other cases that I cited in my brief, that there are  
10   sentencing courts who are departing substantially downward  
11   based on that disparity and other issues within their case.

12           And in Kimbrough, Ms. Perzel correctly states that  
13   the court went down from 220-something to 15 years, but in  
14   that case that was the mandatory minimum. That was as low as  
15   the court could go because there was a ten-year mandatory  
16   minimum for the drugs and another five years for use of a  
17   firearm. In this case we don't have use of a firearm, so you  
18   are theoretically able to go down as far as to ten years, and  
19   we believe that that would be more than sufficiently -- more  
20   than a sufficient sentence under the facts of this case and  
21   certainly a sentence in the range of 262 and up would be  
22   greater than necessary under these facts.

23           The history and characteristics under 3553(a) of  
24   Mr. Tate, I would submit he was -- he was a long-term drug  
25   dealer, but I think a relatively low-level drug dealer. He



1 wasn't somebody who could be characterized as a kingpin. He  
2 was characterized as an average participant in this offense.

3 And in addition, his prior convictions for those  
4 two crimes of violence, the third degree assault and fourth  
5 degree assault, I would submit that those are at least on the  
6 lower range of the spectrum of the types of prior crimes of  
7 violence that would get somebody in the situation where they  
8 would be looking at a double departure, upward departure  
9 based on the guidelines. So if you're using a base level 30,  
10 if he didn't have the crime of violence, minus three points  
11 for acceptance, it would have been 130 to 162 months.  
12 Instead, the guidelines dictate 262 up to 327.

13 Although he has, you know, clearly an extensive  
14 criminal record as revealed and shown clearly in the PSR, I  
15 think it's significant he's never served any time in prison.  
16 At most he's served eight months at a stretch for any  
17 specific offense.

18 THE COURT: I have 18 months at one point.

19 MR. ANDERSON: He was sentenced to 18 months, but  
20 he served initially one year, so serving eight months of that  
21 one year.

22 THE COURT: All right.

23 MR. ANDERSON: I mean, just literally, he hasn't  
24 sat in prison anywhere for 18 months or anything like that.  
25 So a ten-year, 15-year sentence would be absolutely

1 significant and substantial for this person standing before  
2 you today, and meaningful, a meaningful sentence.

3 As you'll hear from him and as he has indicated to  
4 the probation officer, he takes responsibility for his  
5 action. He pleaded guilty. He's shown a desire to turn his  
6 life around. He recognizes he needs help. He needs  
7 treatment, counseling. He's looking forward to the  
8 educational opportunities he'll have. He's also I think  
9 significantly tried to assist in ways that have been related  
10 to the Court *in camera*, and he has continued to do that even  
11 to this week. It hasn't ultimately worked out in the fashion  
12 he had hoped, but it was -- he has made -- he has made his  
13 efforts and it's difficult from where he is.

14 As far as looking at what sentence would provide  
15 proper deterrence and protection of the public, again, ten  
16 years, 15 years would still be an incredibly strong deterrent  
17 and would protect the public.

18 Again, getting back to he's never served any actual  
19 prison time before, he's showing he's trying to turn things  
20 around, and I think the crack/powder cocaine disparity is  
21 another reason under this factor to show that giving somebody  
22 ten years or 15 years for this kind of offense even with his  
23 prior background and criminal record is sending a very strong  
24 message and keeping him off the streets for a significant,  
25 significant period of time.

1           And then finally, as I touched upon, the need to  
2       avoid unwarranted and unwanted sentencing disparities. There  
3       are numerous other courts -- and I have to believe that it's  
4       going to be happening a lot more now that Kimbrough is out  
5       there. Courts are finding substantial reasons to grant  
6       substantial downward departures in these types of cases. And  
7       I think that looking at all the unique facts and  
8       circumstances of this case, as well as the facts and  
9       circumstances of this type of case in general, warrants a  
10      significant, substantial downward departure. We believe that  
11      ten years is sufficient, but certainly 15 years or less would  
12      be absolutely more than adequate under all of the factors  
13      that this Court should and can look at.

14           Finally, I don't know if this is appropriate, but  
15      two very quick requests from Mr. Tate are that he serve his  
16      time in Minnesota or as close to Minnesota as possible and  
17      that he would ask for credit for the time served since he was  
18      arrested on April 29th, 2007 and he's been in custody that  
19      entire time, so we would ask for credit for that time served.

20           THE COURT:   Addressing your last point first, I  
21      guess, it was the thought of the probation officer and I  
22      think your client that he would benefit from the Residential  
23      Drug Abuse Program. He's not going to get the year off, but  
24      that would be at Sandstone or Waseca. Is that his  
25      preference?

1 MR. ANDERSON: Yes. Yes. And in talking with  
2 him, I believe Waseca was his number one choice, but either  
3 one of those, and he has talked to me anyway about his wish  
4 to undergo that drug treatment program even though he may not  
5 get any specific credit for that.

6 THE COURT: All right. Ms. Perzel, do you want to  
7 respond now before Mr. Tate?

8 MS. PERZEL: Yes, your Honor, and I will do so  
9 just very briefly.

10 In this case we need not look far to find a  
11 relatively analogous set of facts, because the defendant was  
12 involved with a number of co-defendants in this crime and we  
13 did have someone who was in some circumstances similarly  
14 situated, Mr. Chauvin, who was a career offender and who in  
15 that case received a sentence of I believe it was  
16 approximately 15 years.

17 THE COURT: I have it in months, 180.

18 MS. PERZEL: A hundred and eighty months. That's  
19 what I thought, your Honor. And as your Honor knows, there  
20 were some facts in that case that are different than what is  
21 being presented here and those were presented to the Court  
22 *in camera*.

23 With respect to the guidelines, the United States  
24 is asking that the Court sentence the defendant to the low  
25 end of the advisory range, which is 262 months. If the Court

1 considers -- chooses to consider the crack cocaine/powder  
2 cocaine disparity, although the United States believes  
3 262 months is appropriate, the United States would request no  
4 greater than a two-level reduction -- that would be a 210- to  
5 262-month range -- than at level 32.

6 The United States believes, your Honor, in this  
7 case that the sentence -- that is the guideline range, the  
8 bottom of that box is appropriate in this case. We are  
9 seeing through our investigations a number of offenders who  
10 aren't selling significantly large quantities of drugs but  
11 are instead choosing to make a lot of money by parting out  
12 their drugs and selling the very small quantities. But based  
13 on this set of facts, your Honor, and the defendant's sadly  
14 very lengthy criminal history, the United States believes a  
15 guideline sentence is appropriate.

16 Thank you.

17 THE COURT: Thank you, Ms. Perzel.

18 Mr. Tate, you don't have to say anything, but if  
19 you want to tell me anything, I'd be happy to listen to you.

20 THE DEFENDANT: I'd just like to start this letter  
21 off by saying it's been so hard for me to think, let alone  
22 speak, what's been on my mind with the fear and anxiety that  
23 I'm having being in this situation, so I thought I'd put it  
24 on paper today.

25 First and foremost, I'd like to apologize to the

1 Court for any inconvenience that I may have caused.

2 Next I'd like to thank Mr. Anderson -- I'd like to  
3 thank Mr. Anderson for having an open ear and giving me  
4 understanding to the many questions that I've been needing to  
5 be answered. Thanks.

6 MR. ANDERSON: Thank you.

7 THE DEFENDANT: Now I'd like to speak on a  
8 personal matter, a matter that has to do with the position  
9 that I put myself in that has had a dramatic effect on my  
10 family and the communities that I sold drugs in.

11 First I want to speak on this issue about my  
12 mother, her having the breakdowns about never seeing me  
13 outside the prison walls again; secondly, my daughter, who  
14 suffers daily from my absence. Just a few months back I was  
15 told that she made comments about not wanting to live  
16 anymore. Her mother told me that she speaks dearly of me and  
17 her recent deceased grandmother. I'm not writing this to be  
18 -- for you to be sorry for me, but to see that these two  
19 reasons alone is enough for a person to reevaluate his life.

20 I'd like to talk about a few more incidents that  
21 had happened that has affected me and the change in my life.  
22 It happened early last year, early 2007. It had to do with  
23 two guys from a neighborhood murder, one a very close friend  
24 of mine, another like a nephew.

25 At that time -- at those funerals and at that time,

1 I seen the pain, a pain that I just -- that I was yet to see  
2 in my life that affected a person's mother, a person's  
3 father, and at that time I vowed to myself that I was going  
4 to make a change, that I was -- I mean, it was the end of --  
5 it was the end of this lengthy life that I lived that  
6 involved selling drugs, selling crack.

7 I remember -- I remember clear as day that last  
8 night -- that last night that I was in Michigan, I was in  
9 Detroit after that funeral, me and my mother sitting down,  
10 and we talked, we laughed, we cried. And I went on  
11 explaining -- I went on and told her how stressed I was, how  
12 tired I was. I took her keys. I remember taking her keys  
13 and returning to Minnesota. I was here two weeks, two weeks  
14 before being picked up on other charges which led me here.

15 Basically what I'd like to say -- I mean, I laid --  
16 I made a bed that now I have to lay in. I'd just like to say  
17 I'm sorry. I'm sorry. There's no more for me to say. I'm  
18 sorry.

19 THE COURT: Mr. Tate, you just turned 30, right?

20 THE DEFENDANT: Yes.

21 THE COURT: You've had a tough 30 years and you've  
22 accumulated a lot of criminal history points, and as you can  
23 see very dramatically what it does to the numbers in federal  
24 court, it just puts you in these huge, lengthy sentences.  
25 I'm going to give you a sentence that's below the guidelines

1 somewhat, but it's still a very, very long sentence and it  
2 has to be because of the serious behavior.

3 And we can argue -- and lots of what Mr. Anderson  
4 says I agree with -- about crack and cocaine and the treating  
5 of them differently and the attempts to try to treat them  
6 more alike, but that doesn't really answer all of the  
7 sentencing issues, because the other big driver in your  
8 sentence is 26 criminal history points. And as I said, I  
9 cranked that back a little bit on the advice of the Probation  
10 Office because of a couple factors, but there's no way to get  
11 around the fact you have a very bad criminal past.

12 So far, as you know, you sort of bounced along  
13 doing things on the installment plan, a few days here and  
14 there in the criminal system. As you can see now, it must  
15 feel to you and to me to a certain extent that the weight of  
16 the world has fallen on you because these huge numbers in  
17 federal court, particularly for offenses like this which are  
18 serious, mean very long sentences.

19 I have tried to look at where you stand in relation  
20 to your co-defendants in the case and what makes sense with  
21 regard to them, what makes sense with regard to the  
22 disparities between crack and cocaine, what makes sense with  
23 regard to the fact that even though you have a long criminal  
24 history, you've never served a particularly long sentence  
25 before, certainly nowhere near the sort of sentence that is



1 going to be required under the circumstances here.

2 Larry Curtis Tate, you have been charged in an  
3 indictment with conspiracy to distribute at least 50 grams of  
4 cocaine base and a detectable amount of cocaine in violation  
5 of Title 21, United States Code, Sections 841 and 846, which  
6 is a Class A felony, and based upon your plea of guilty it is  
7 considered and adjudged that you are guilty of the offense.

8 It is therefore adjudged that you be committed to  
9 the custody of the Bureau of Prisons for imprisonment for a  
10 term of 211 months. You are to receive credit for the time  
11 already served.

12 It is also recommended that you participate in the  
13 500-hour Residential Drug Abuse Program during the course of  
14 your incarceration.

15 It is also ordered that you serve a supervised  
16 release term of I believe it's five years under the following  
17 terms and conditions:

18 That you are not to commit any crimes; federal,  
19 state, or local.

20 You are to abide by the standard conditions of  
21 supervised release as recommended by the Sentencing  
22 Commission.

23 You are ordered not to possess any firearms or  
24 other dangerous weapons.

25 You are also ordered to cooperate in the collection

1 of your DNA as directed by the Probation Office.

2 I do order that you participate in a program for  
3 substance abuse as approved by the Probation Office, and that  
4 may may include testing, inpatient, outpatient treatment,  
5 counseling, or a support group.

6 It is also ordered that you contribute to the costs  
7 of such treatment as determined by the Probation Office  
8 Copayment Program, not to exceed the total cost of treatment.

9 You are ordered not to associate with any member,  
10 prospect or associate member of the Detroit Boys gang or any  
11 other gang. If you are found to be in the company of such  
12 individuals while wearing the clothing, colors, or insignia  
13 of the Detroit Boys gang or any other gang, it will be  
14 presumed that the association was for the purpose of  
15 participating in gang activities.

16 You are also ordered to be employed at a regular  
17 lawful occupation deemed appropriate by the Probation Office.  
18 If not, you will be required to perform up to 20 hours of  
19 community service per week until fully employed.

20 You are ordered to participate in training,  
21 counseling, daily job search or other employment-related  
22 activities as directed by the Probation Office.

23 I am also going to add what's called a search  
24 condition to your supervised release. I don't do that very  
25 often, but I think in your case it's justified.

1           You are ordered to submit your person, residence,  
2           office, vehicle or area under your control to a search  
3           conducted by the Probation Office or supervised release  
4           designee at a reasonable time and in a reasonable manner  
5           based upon a reasonable suspicion of contraband or evidence  
6           of a supervised release violation.

7           You are ordered to warn any other residents or  
8           third parties that the premises and areas under your control  
9           may be subject to searches pursuant to that condition.

10          It is also ordered that you pay the special  
11          assessment of \$100, which is due immediately.

12          No fine will be imposed in light of your financial  
13          circumstances.

14          Ms. Perzel, may Counts 2 and 3 now be dismissed?

15          MS. PERZEL:    Yes, your Honor.

16          THE COURT:    Mr. Tate, you have a right to appeal  
17          the sentence.  You must do so within ten days.  Actually, I  
18          guess it was waived at anything above two hundred and -- it  
19          says 262 months.  Obviously the sentence is considerably  
20          below 262, so I don't think you have a right to appeal, but  
21          if you thought for some reason that right survived, you must  
22          file within ten days.

23          The Government does have a right to appeal this  
24          sentence, however.

25          And Mr. Tate is entitled to continued assistance of

1 counsel.

2 I have imposed a total sentence of 211 months and I  
3 do find that it complies with the statutory objectives for  
4 sentencing under Title 18, United States Code, Section  
5 3553(a).

6 It is, as I indicated before, a sentence less than  
7 the recommended sentencing guidelines. I've done that for  
8 the reasons I've already discussed. It puts you in what the  
9 Court considers the appropriate proportionality of your  
10 sentence to other defendants. It also serves as just  
11 punishment, sufficient opportunity for rehabilitation, and  
12 it, as I said, does reflect some of the arguments raised by  
13 counsel which I've adopted in part.

14 I am going to recommend, Mr. Tate, as you  
15 requested, that you serve that sentence at Waseca because  
16 they have the drug program, but I don't want to mislead you.  
17 I can't control where your sentence is, so it's going to be  
18 just a recommendation. It's not a guarantee that you'll get  
19 there.

20 It is important, I think, that -- you have a  
21 supportive family and I think it's important that you be as  
22 close to them as possible under the circumstances, so I'll  
23 make that recommendation.

24 Anything further from the Government?

25 MS. PERZEL: No, your Honor. Thank you.

1 THE COURT: Mr. Anderson?

2 MR. ANDERSON: Your Honor, does there need to be  
3 anything specific regarding credit for time already served,  
4 or did you say that?

5 THE COURT: I think I did say credit for time  
6 already served, but they'll have that in the records.

7 Anything further?

8 (No response)

9 THE COURT: Good luck to you, Mr. Tate.

10 THE DEFENDANT: All right. God bless you.

11 (Proceedings concluded at 4:45 p.m.)

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**C E R T I F I C A T E**

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I, **TIMOTHY J. WILLETTE**, Official Court Reporter  
for the United States District Court, do hereby  
certify that the foregoing pages are a true and  
accurate transcription of my shorthand notes,  
taken in the aforementioned matter, to the best  
of my skill and ability.

22

**/s/ Timothy J. Willette**

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